

Broker/Lawyer Committee Meeting
Minutes
July 10, 2015

- (1) The meeting was called to order at 10:00 a.m. on July 10, 2015.

Members Present:	Chuck Jacobus	Charlie Still	Charles Kramer
	Greg Glenn	Bo Blackburn	Dan Odom
	S.J. Swanson	Aimee Slusher	Leigh York

Others Present: Kerri Lewis (General Counsel), Abby Lee, and Jim Weidemer

- (2) The committee reviewed and accepted the minutes from its prior meeting on May 22, 2015.

- (3) The committee discussed its current drafts of the contract forms (drafts dated 11-2-2015).

- (a) The committee decided to add new paragraph 4 to read:

4. LICENSE HOLDER DISCLOSURE. Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10% or a trust for which the license holder acts as trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary must notify the other party in writing before entering into a contract of sale. If applicable, disclose below:

- (b) The committee decided to change the penultimate sentence in Paragraph 9A to read:

On or before the Closing Date, Buyer may extend the Closing Date up to 10 days, by giving notice to Seller, if Buyer's lender is required to provide additional disclosures mandated by the TILA-RESPA Integrated Disclosure Rule.

- (c) The committee instructed staff to include the changes concerning Rollback Taxes which it made to the Farm and Ranch Contract Form (25-11) in the Unimproved Property Contract Form (9-12).

- (d) The committee reviewed the proposed Third Party Financing Addendum (40-7). The committee asked staff to:

- (i) correct a typographical error in Paragraph C ("bust" should read "must");
- (ii) bold Paragraph B(3);
- (iii) change "with" to "when in the first sentence in Paragraph B;
- (v) close the missing parenthetical in Paragraph A(6); and
- (vi) add "loan" after "mortgage" in Paragraph A(6).

- (e) The committee also noted that the Reverse Mortgage Financing Addendum will be repealed upon adoption of the revised Third Party Financing Addendum.
- (f) The committee discussed Paragraph 10 in the forms, but chose not to make any changes to the drafts.
- (g) The committee discussed a proposal to add new Paragraph 2D to the Condominium Contract Form (30-12) to address situations where the Condominium Documents reveal the existence of a right of first refusal after the parties enter into a contract. The committee decided to add the following as a new Paragraph 2D.
 - D. If the Documents reveal that the Property is subject to a right of refusal under which the Association or a member of the Association may purchase the Property, the effective date shall be amended to the date that the Buyer receives a copy of the Association's certification that: (i) Seller has complied with the requirements under the right of refusal; and (ii) all persons who may exercise the right of refusal have not exercised or have waived the right to buy the Property. If Buyer does not receive the Association's certification within ____ days after the effective date or if the right of refusal is exercised, this contract shall terminate and the earnest money shall be refunded to Buyer.
- (4) The committee discussed HB 1221 and the instructed staff to change the Seller's Disclosure of Property Condition (OP-H) to conform to the required changes set out in HB 1221.
- (5) The committee discussed HB 1665 and decided to add the following as new Paragraph 6E(10) of the draft forms.
 - 10. NOTICE OF WATER FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed or maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including the result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."
- (6) The committee discussed SB 1367 and asked staff to change Paragraph 9B(5) to read that Buyer has "acquired" the Property and is responsible for the return of the security deposit, in conformity with SB 1367.
- (7) The committee discussed SB 1168 and asked staff to amend the Condominium Resale Certificate (32-3) to conform to SB 1168.
- (8) The committee discussed the possibility of adding an arbitration clause to the contract forms, but took no action.

- (9) The committee discussed the procedure for the drafts to be presented to the Real Estate Commission and the possible adoption of forms on an emergency basis. The committee suggested that, in order to reduce confusion, the Commission adopt the forms on an emergency basis as a group and not separate the forms for emergency and non-emergency purposes.

The committee adjourned its meeting about 12:30 p.m.